

## REMARKS

Applicant wishes to thank the Examiner for participating in the interview with the Applicant on June 24, 2008, at which time various suggestions or feedback were provided to improve the form of the claims. This Supplemental Amendment is being submitted to improve the form of the claims.

### The Section 112, First Paragraph Rejections

Claims 1-7 and 9 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. (Office Action, pp. 4-6). Applicant has amended the claims pursuant to suggestions provided by the Examiner. Withdrawal of this rejection is respectfully requested.

Applicant directs the Examiner to the following portions of the Specification for support of many of the claim terms (original or newly introduced) used by the claims.

- Page 3, lines 6-8: "With reference to Fig. 1, a mirror element 10 is **affixed** to a mirror pole 12 which is in turn received in a mirror mount 14 by which the mirror 10 is thus **secured** to the front fender 16 of a school bus 18."
- Page 3, lines 8-15: "The mirror element 10 is generally **dome shaped** (Fig. 3), but can have a **variety of peripheral edge shapes**, for example, circular as shown in Fig. 2A, horizontally oval as shown in Fig. 2B or vertically oval as shown in Fig. 2C. The depth of the dome relative to the base 20 (Fig. 3) of the mirror 10 can be **selected to choose different angles of view**, as is well known. Also, as is known in the art, the mirror element 10 can have one field of view in the horizontal direction (denoted by the arrows 22 in Figs. 2A and 2B) and a different angle of view in the vertical direction as denoted by the arrows 24. **The angle of view magnitude is determined by the radius of curvature of the mirror surface in the horizontal and vertical directions.**"

- Page 3, line 21 to page 4, line 15: “The sun rays reflection problem is solved by **treating** a portion, specifically the upper portion of the mirror surface with an anti-glare material . . . .

With reference to Fig. 2A, in the broadest application of the present invention, the **treated surface** encompasses that portion of the mirror element surface 10 which begins at the **uppermost position** 30 and continues to about halfway down the vertical direction, to the line which is identified by reference numeral 34. In a mirror element fabricated so that **the upper one half portion of the dome surface is treated for glare, the image in that portion will be darkened** because of the glare treatment. It is important not to increase the portion treated with anti-glare material beyond the bottom one half portion because the glare treatment reduces the sharpness of the image and it is important that the **lower half mirror which points to the front of the bus** where very young, short children may be standing **is not affected**.

- Page 4, lines 11-14: “Preferably, however, it is sufficient for **reduction of the glare** problem if only the top one third of the mirror surface is **treated with the anti-glare material**. In this preferred embodiment, only the surface above the **curved line** identified by reference numeral 36 (in Fig. 2A) is covered with the anti-glare material. Note that the line 36 is curved relative to the straight surface bisecting line 22.”
- Page 4, lines 19-21: “However, turning to Figure 4, the invention also encompasses **applying onto the surface** of the reflecting mirror an island of **anti-glare coating** selected specifically to deal with any location on the mirror surface from which the undesired reflection may emanate.”

In addition, the Examiner is also directed to the originally filed claims for additional support of the claim terms.

### The Section 103 Rejections

Independent claims 1-9 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Stout in view of Falge. (Office Action, pp. 7-10).

As discussed in the interview, the Examiner’s proposed combination of Stout in view of Falge would still not yield the presently claimed combination of elements in claims 1-15. For example, the **combination of Stout with Falge fails to teach or suggest** the combination of

features recited in independent claims, including “a portion of the outer surface . . . being treated with and comprising an antiglare material which is effective to reduce glare.”

Additionally, one of ordinary skill in the art at the time of applicant's invention would not have combined the teachings of Stout with those of Falge. In particular, Stout discloses a cross view mirror for mounting outside of the bus, whereas Falge discloses a rear view mirror for mounting within the bus, and which is structured such that only a **portion of the outer reflecting surface** is used at any one time, depending on the tilt of the mirror. **In other words, the entire surface of the mirror is never used to provide a single, integrated, wide-angle field of view as with the claimed mirror assembly.** Thus, one of ordinary skill in the art, when faced with the teachings of Stout, simply would not have looked to a disclosure such as Falge for combination.

Applicant is submitting herewith three (3) letters and the State of Florida bus regulations providing evidence of secondary considerations, including commercial success and non-obviousness. The evidence establishes that the **commercial success is a direct result of the claimed features**, i.e., the treatment of the cross view mirrors with the anti-glare material.

Applicant **first** is submitting a letter from the inventor and VP Engineering of the assignee of the present application, Mr. Benjamin Englander, that establishes the **significant superiority** of the mirrors covered by the claimed invention (Exhibit A). Specifically, Mr. Englander states that the **tens of thousands of the mirrors having the anti-glare tint**, and therefore, falling within the claims of the present application, **have been sold and installed on buses**. In addition, Mr. Englander states that the cross view mirrors treated with the anti-glare tint were purchased **specifically because of the feature of the anti-glare tint**, and that even

though the mirrors sold covered by the claims of the present application cost more, nevertheless, customers purchased the mirrors for the anti-glare feature that is currently being claims.

**Second**, Applicant is submitting a letter from Michael Costello, General Manager of M and E Sales LLC, a purchaser of cross view mirrors treated with the anti-glare material of the present invention (Exhibit B). Mr. Costello states in his letter that he is aware that the assignee of the present application, Rosco Inc., sells cross view mirrors with the anti-glare material according to the present invention and without anti-glare materials. Mr. Costello states that his company has purchased many of the mirrors including the anti-glare material of the present invention, namely over 175 units. Mr. Costello states that the cross view mirrors embodying the anti-glare tint are significantly superior over cross view mirrors without tint. Specifically, Mr. Costello states that the cross view mirrors treated with the anti-glare tint were purchased specifically because of the feature of the anti-glare tint, even though the mirrors sold covered by the claims of the present application cost more. Nevertheless, the mirrors with the anti-glare feature were purchased because of their improved performance over the cross view mirrors without the tint.

**Third**, Applicant is submitting a letter from Patricia Allrid, Corporate Purchasing Agent of Bluebird Corporation, a purchaser of cross view mirrors treated with the anti-glare material of the present invention (Exhibit C). Ms. Allrid states in her letter that **she is aware** that the assignee of the present application, Rosco Inc., sells cross view mirrors with the anti-glare material according to the present invention and without anti-glare materials. Ms. Allrid also states that Bluebird purchased from Rosco, Inc. and installed tens of thousands of the cross view mirrors including the anti-glare material of the present invention during the years 2001-2002. Ms. Allrid states that the cross view mirrors embodying the anti-glare tint are significantly

superior over cross view mirrors without tint. Specifically, Ms. Allrid states that the cross view mirrors treated with the anti-glare tint were purchased specifically because of the feature of the anti-glare tint, even though the mirrors sold covered by the claims of the present application cost more. Nevertheless, the mirrors with the anti-glare feature were purchased because of their improved performance over the cross view mirrors without the tint. Please note that subsequent to the 2001-2002 time period, that Ms. Allrid worked as a consultant for Rosco, Inc.

Fourth, Applicant is submitting excerpts from the **State of Florida's 2006 School Bus Specifications**. In particular, Section 20, Sub-Section b. Exterior Mirrors includes specifications for cross view mirrors (Exhibit D). In particular, Sub-section (1) Cross/Side View Mirror System; states the following:

“(b) Mirrors shall not reflect excessive glare from the bus headlights or the sun in the driver’s eyes. Mirrors shall be . . . shaded ½ sphere design.” Page III-16.

Applicant submits that these specifications were promulgated in direct response to Applicant’s invention. Specifically, prior versions of the Florida Specifications did not include ½ sphere design to be utilized in conjunction with school buses in Florida. Applicant worked with the State of Florida to permit ½ sphere cross view mirrors to be acceptable under the regulations because of the claimed tinted feature that Applicant provided as part of the cross view mirror system. Applicant has contacted an official at the State of Florida and will be providing a letter indicating that the tinted feature of the Rosco cross view mirrors covered by the claims of the present application provide superior performance. Applicant requests that the Examiner enter such letter as part of the record and not consider such letter as raising new issues requiring further search and/or consideration.

Accordingly, Applicant submits that the three (3) letters and the State of Florida bus regulations (Exhibits A-D) provide significant evidence of secondary considerations, including commercial success and non-obviousness, assuming *arguendo* that the Examiner has established a *prima facie* case of obviousness, that rebuts and indeed shows the presently claimed invention is non-obvious. That is, the evidence submitted herewith in Exhibits A-D establishes that the **commercial success of the present invention is a direct result of the claimed features**, i.e., the treatment of the cross view mirrors with the anti-glare material. Accordingly, withdrawal of the rejections of claims 1-10 is respectfully requested.

In addition, the Examiner has failed to provide any argument or evidence how the prior art could be combined and/or modified to arrive at the presently claimed invention. That is, Applicant respectfully submits that the Examiner's proposed combination still does not read on the claims of the present application. Thus, for these reasons as well, Applicant respectfully requests withdrawal of the rejections of claims 1-9.

Accordingly, for at least these reasons, claims 1 and 9 are patentable over the combination of Stout with Falge, and the therefore rejection of the claims under section 103 should be withdrawn. In addition, dependent claims 2-7 are allowable at least because independent claim 1 is allowable. Thus, the rejections of dependent claims 2-7 are moot and should also be withdrawn. In addition, new claims 10-15 also patentably distinguish over the prior art for the reasons discussed above as relating to the limitations recited in claims 10-15 and/or the reasons provided previously.

### Conclusion

Applicant respectfully submits that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. Applicant does not concede that the cited prior art shows any of the elements recited in the claims. However, to the extent Applicant has discussed specific elements of the claims, Applicant has merely provided examples of elements in the claims that are clearly not present in the cited prior art.

Applicant strongly emphasizes that one reviewing the prosecution history should not interpret any of the examples Applicant has described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, Applicant asserts that it is the combination of elements recited in each of the claims, when each claim is interpreted as a whole, which is patentable. Applicant has emphasized certain features in the claims as clearly not present in the cited references, as discussed above. However, Applicant does not concede that other features in the claims are found in the prior art. Rather, for the sake of simplicity, Applicant is providing examples of why the claims described above are distinguishable over the cited prior art.

Applicant wishes to clarify for the record, if necessary, that the claims have been amended to expedite prosecution and/or explicitly recite that which is already present within the claims as interpreted in view of the specification. Moreover, Applicant reserves the right to pursue the original and/or complimentary subject matter recited in the present claims in a continuation application.

Any claims that have been cancelled are hereby cancelled without prejudice or disclaimer, and Applicant reserves the right to further prosecute these claims in continuing applications. In addition, Applicant has attempted to claim all embodiments disclosed in the

present application, and no disclaimer of any embodiments is hereby intended by the presently pending claims.

Any narrowing amendments made to the claims, if any, in the present Amendment are not to be construed as a surrender of any subject matter between the original claims and the present claims; rather merely Applicant's best attempt at providing one or more definitions of what the Applicant believes to be suitable patent protection. In addition, the present claims provide the intended scope of protection that Applicant is seeking for this application. Therefore, no estoppel should be presumed, and Applicant's claims are intended to include a scope of protection under the Doctrine of Equivalents and/or statutory equivalents, i.e., all equivalents that are substantially the same as the presently claimed invention.

Further, Applicant hereby retracts any arguments and/or statements made during prosecution that were rejected by the Examiner during prosecution and/or that were unnecessary to obtain allowance, and only maintains the arguments that persuaded the Examiner with respect to the allowability of the patent claims, as one of ordinary skill would understand from a review of the prosecution history. That is, Applicant specifically retracts statements that one of ordinary skill would recognize from reading the file history were not necessary, not used and/or were rejected by the Examiner in allowing the patent application.

Applicant also traverses any "Official Notice," "Design Choice," "Admitted Prior Art" or other alleged prior art that the Examiner purports are well known with respect to the claimed combination of the present invention. Applicant disagrees and requests the Examiner to provide a prior art reference describing any of these features that the Examiner has not provided a prior art reference or an affidavit under 37 C.F.R. § 1.104(d)(2) providing details of why it would have

been obvious. In the absence of either, Applicant requests withdrawal of this rejection for these reasons as well.

For all the reasons advanced above, Applicant respectfully submits that the rejections have been overcome and should be withdrawn.

For all the reasons advanced above, Applicant respectfully submits that the Application is in condition for allowance, and that such action is earnestly solicited.

**Authorization**

The Director is hereby authorized to charge any additional fees which may be required for this Reply, or credit any overpayment, to Deposit Account No. 08-0219.

In the event that an Extension of Time is required, or which may be required in addition to that requested in a petition for an Extension of Time, the Director is requested to grant a petition for that Extension of Time which is required to make this response timely and is hereby authorized to charge any fee for such an Extension of Time or credit any overpayment for an Extension of Time to Deposit Account No. 08-0219.

Respectfully submitted,  
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